

TESTIMONY OF THEODORE J. VOGEL

HOUSE TAX POLICY COMMITTEE

October 21, 2009

Good morning. My name is Theodore J. Vogel. I am Vice President and Chief Tax Counsel of Consumers Energy Company and its parent, CMS Energy, where I have had responsibility for tax matters since 1987. I received my law and MBA degrees from the University of Michigan, and my undergraduate degree from Calvin College. My first professional exposure to Michigan taxation came when I worked as an accountant in a Grand Rapids CPA firm in the year the SBT first took effect. I was deeply involved in the "Proposal A" school finance reform legislative efforts in 1994 as chair of the Michigan Chamber Tax Policy Committee.

As a major Michigan energy provider, Consumers Energy is concerned with Michigan's business tax policy for two principal reasons: First, we are 100% in Michigan. Our investment, jobs and customers are all in Michigan. Every dollar of tax imposed on Consumers Energy is a dollar of tax imposed on the residents and businesses of Michigan. We strive every day to keep the cost of energy to Michigan businesses and individuals affordable and competitive. Second, because we are so intimately involved with Michigan, we are dependent on the health of the Michigan economy. Attractive, fair and consistent tax policy is critically important to achieving a healthy and growing Michigan economy.

Tax policy, and tax credits in particular, should be consistent, even-handed and dependable. We are concerned that Michigan's policy with respect to tax credits may fail to meet these goals, and we recommend the following approach:

The compensation, investment, and research credits were enacted to encourage investment and the creation of jobs in Michigan, and should be retained. However, limitation on the use of the credits against tax liability, and the inability to carry forward unused credits, severely undermine achieving the goal of these credits. To achieve their intended purpose, these credits should be allowed to offset up to 100% of MBT tax liability, with unused credits carried forward to offset future tax liabilities.

The personal property tax credit was enacted to reduce the personal property tax burden on Michigan businesses, a burden most neighboring states no longer impose on their businesses. Michigan's credit, however, only partially reduces this burden, and does so unevenly. Utility property, for example, is completely excluded from this tax reduction. We encourage the legislature to reduce or eliminate the disparity in personal property taxation between utility property and other industrial property.

The brownfield tax credit, we believe, works as intended in its current form and should be retained.

Thank you for your careful consideration of these issues.